



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0702 FRL-9537-02-R4]

Air Plan Approval; Georgia; Air Quality Control, Miscellaneous Rule Revisions to Definitions and Permitting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the Georgia state implementation plan (SIP) submitted on behalf of the State of Georgia by the Georgia Environmental Protection Division (GA EPD) through a letter dated September 1, 2020. This revision includes changes to the State's air quality regulations incorporated into the SIP by changing the definition of "pollution control project" and making minor changes to the corresponding minor new source review (NSR) permitting regulations for consistency. EPA is approving this SIP revision because the State has demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

DATES: This rule is effective [Insert 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0702. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory

Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams-Miles, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303-8960. The telephone number is (404) 562-9144. Ms. Williams-Miles can also be reached via electronic mail at WilliamsMiles.Pearlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving a SIP revision submitted on behalf of the State of Georgia by GA EPD through a letter dated September 1, 2020.¹ This revision changes the definition of “pollution control project” (PCP) at Georgia Rule 391-3-1-.01(qqqq) and the scope of the corresponding permitting provisions related to PCPs at Rule 391-3-1-.03(6), “Exemptions,” at subsection (j). Pursuant to Rule 391-3-1-.03(6)(j),² PCPs are exempt from the requirement to obtain a minor source construction permit under Georgia Rule 391-3-1-.03(1), “Construction (SIP) Permits.” The submittal first changes the definition of PCP to require that any collateral emissions increase from a PCP must be lower than the emissions thresholds established to exempt cumulative modifications at Rule 391-3-1-.03(6)(i)3.(i)-(v) from minor source construction permitting.³

¹ The September 1, 2020, submittal contains changes to other SIP-approved rules that are not addressed in this notice. EPA will be acting on those rules separately.

² EPA approved the PCP definition into the SIP, with the exception of subsections (qqqq)1. and (qqqq)3.-8., on May 29, 2020. *See* 85 FR 32300.

³ SIP-approved Rule 391-3-1-.03(6)(i)3 states “Cumulative modifications not covered in an existing permit to an existing permitted facility where the combined emission increases (excluding any contemporaneous emission decreases, i.e., “netting” is not allowed) from all nonexempt modified activities are below the following thresholds

Secondly, the definition is changed to revise the list of projects that are presumed to be environmentally beneficial and qualify as PCPs. Lastly, the definition is revised to change rule cross-references for consistency with the revision to the list of projects. The September 1, 2020, SIP revision also makes changes to Rule 391-3-1-.03, “Permits,” at section (6)(j), “Construction Permit Exemption for Pollution Control Projects” to update the cross-references to Rule 391-3-1-.01(qqqq) to correspond to the updated list of projects. The changes to Rule 391-3-1-.03(6) also include minor administrative edits that do not change the meaning of the existing SIP-approved provisions.

On February 10, 2022, EPA published a Notice of Proposed Rulemaking (NPRM) proposing to approve the September 1, 2020, SIP revision regarding updates to Georgia’s ambient air quality standard rules. *See* 87 FR 7786. The February 10, 2022, NPRM provides additional detail regarding the background and rationale for EPA’s action. Comments on the February 10, 2022, NPRM were due on or before March 14, 2022. EPA received no comments on the February 10, 2022, NPRM.

Because the aforementioned changes do not alter the universe of sources exempted from minor source construction permitting under the SIP with this revision, Georgia’s SIP is not being relaxed. Therefore, EPA believes that these changes are consistent with CAA sections 110(l) and 193, and requirements for minor source permitting in CAA section 110(a)(2)(C) and federal regulations. Thus, EPA is proposing to approve the SIP revision.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the

for all pollutants: (i) 25 tons per year of carbon monoxide; (ii) 150 pounds per year total with a 1.5 pound per day maximum emission of lead; (iii) 10 tons per year of particulate matter, PM₁₀ or sulfur dioxide; (iv) 10 tons per year of nitrogen oxides or volatile organic compounds (VOCs) except in the counties of Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, or Rockdale, where less than 2.5 tons per year of nitrogen oxides or VOCs is exempted; and (v) 2 tons per year total with a 15 pound per day maximum emission of any single hazardous air pollutant and less than 5 tons per year of any combination of hazardous air pollutants.”

incorporation by reference of Georgia Rule 391-3-1-.01, “Definitions” at section (qqqq), state effective on July 29, 2020, which revises the definition of “Pollution control project,” and Georgia Rule 391-3-1-.03(6), “Exemptions,”⁴ also state effective on July 29, 2020, which is revised to establish consistency with the revisions to 391-3-1-.01(qqqq). EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” Section of this preamble for more information).

III. Proposed Action

EPA is approving the aforementioned changes to the Georgia SIP. Specifically, EPA is approving the revisions to section (qqqq) of Rule 391-3-1-.01, “Definitions” and throughout section 391-3-1-.03(6), “Exemptions.” EPA is approving these changes because they are consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

⁴ The table entry for Georgia Rule 391-3-1-.03(6), “Exemptions,” at 40 CFR 52.570(c) is revised in this action to include an explanation clarifying that 391-3-1-.03(6)(b)16 is not part of the SIP. Georgia submitted a SIP revision on August 22, 2007, to add (b)16 to the SIP. In a November 27, 2009, notice of final rulemaking, EPA stated that it was not acting on the portion of Georgia’s August 22, 2007, SIP revision addressing (b)16 (*see* 74 FR 62249), and the State withdrew this provision from EPA consideration through a letter dated August 5, 2015.

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52.

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 30, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L – Georgia

2. In §52.570, amend the table in paragraph (c) by revising the entries for “391-3-1-.01” and “391-3-1-.03(6)” to read as follows:

§ 52.570 Identification of plan.

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(c) * * *

EPA-Approved Georgia Regulations

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|-----------------------|----------------------|-----------------------------|--|---|
| 391-3-1-.01 | Definitions | 7/29/2020 | [Insert date of publication in FEDERAL REGISTER], [Insert citation of publication] | Except the first paragraph, sections (a)-(nn), (pp)-(ccc), (eee)-(jjj), (nnn)-(bbbb), (dddd)-(kkkk), (mmmm), (rrrr)-(ssss), approved on 12/4/2018 with a State-effective date of 7/20/2017; sections (ddd) and (cccc) approved on 2/2/1996 with a State-effective date of 11/20/1994; (nnnn), approved on 1/5/2017 with a State-effective date of 8/14/2016; and sections (oooo) and (pppp) which are not in the SIP. |
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|----------------|------------|-----------|---|--|
| 391-3-1-.03(6) | Exemptions | 7/29/2020 | [Insert date of publication in FEDERAL REGISTER], [Insert citation of publication] | With the exception of Rule 391-3-1-.03(6)(b)16 |
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[FR Doc. 2022-07131 Filed: 4/4/2022 8:45 am; Publication Date: 4/5/2022]